PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork R tion Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. **Application Number** 09/698,317 **TRANSMITTAL** Filing Date 10/27/2000 **FORM** First Named Inventor Choi et al. Art Unit 2834 (to be used for all correspondence after initial filing) **Examiner Name** Thomas M. Dougherty Attorney Docket Number 16 PA09-06V02 Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance communication ✓ Fee Transmittal Form Drawing(s) to Technology Center (TC) Appeal Communication to Board Licensing-related Papers Fee Attached of Appeals and Interferences Appeal Communication to TC Petition (Appeal Notice, Brief, Reply Brief) Amendment/Reply Petition to Convert to a Proprietary Information After Final **Provisional Application** Power of Attorney, Revocation Status Letter Change of Correspondence Address Affidavits/declaration(s) Other Enclosure(s) (please Terminal Disclaimer Extension of Time Request Identify below): Application for Patent Term Adjustment Request for Refund **Express Abandonment Request** Return Receipt Postcard CD, Number of CD(s) Information Disclosure Statement Remarks Certified Copy of Priority Document(s) Response to Missing Parts/ Incomplete Application Response to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Kenneth C. Brooks, Reg. No. 38,393 Individual name

### CERTIFICATE OF TRANSMISSION/MAILING

Signature Date

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Katrina Prati		
Signature	Kathera' Prati	Date	10/22/04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/17 (10-04v2) Approved for use through 07/31/2006. OMB 0651-0032 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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# TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL	AMOUNT OF DAVMENT	L (\$), 200,00

SUBMITTED BY

Complete if Known		
Application Number	09/698,317	
Filing Date	10/27/2000	
First Named Inventor	Choi et al.	
Examiner Name	Thomas M. Dougherty	
Art Unit	2834	
Attorney Docket No. PA09-06V02		

METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)					
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Deposit Account:	Order — —			Small			
Deposit 500050		Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
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Deposit Account Molecular Imprii	nts, Inc.	1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
Name The Director is authorized to: (check	all that apply)	1053	130	1053		Non-English specification	
· · · · · · · · · · · · · · · · · · ·	✓ Credit any overpayments	1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
Charge any additional fee(s) or any	<del>_</del>	1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
Charge fee(s) indicated below, excluding to the above-identified deposit account	•	1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
FEE CALCUI		1251	110	2251	55	Extension for reply within first month	1 1
1. BASIC FILING FEE	LATION	1252	430	2252	215	Extension for reply within second month	$\vdash$
Large Entity Small Entity		1253	980	2253	490	Extension for reply within third month	
Fee Fee Fee Fee Fee Des	cription Fee Paid	1254	1,530	2254	765	Extension for reply within fourth month	
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· · · · · · · · · · · · · · · · · · ·	filing fee	1401	340	2401	170	Notice of Appeal	
· ·	iling fee	1402	340	2402	170	Filing a brief in support of an appeal	
1004 790 2004 395 Reissu	ie filing fee	1403	300	2403	150	Request for oral hearing	<u> </u>
1005 160 2005 80 Provis	ional filing fee	1451	1,510	1451	1,510	Petition to institute a public use proceeding	
SUBTO1	AL (1) (\$) 0	1452	110	2452	55	Petition to revive - unavoidable	<u> </u>
		1453	1,370	2453	685	Petition to revive - unintentional	
2. EXTRA CLAIM FEES FOR	Fee from	1501	1,370	2501	685	Utility issue fee (or reissue)	
Total Claims Extra C	laims below Fee Paid	1502	490	2502		Design issue fee	
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	is in excess of 20 endent claims in excess of 3	1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))	
	ele dependent claim, if not paid	1810	790	2810	395	For each additional invention to be	
	issue independent claims r original patent	1801	790	2801	395	examined (37 CFR 1.129(b))  Request for Continued Examination (ŔCE)	
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**or number previously paid, if great	ter; For Reissues, see above	Redi	iceu by	Dasic	mig F	ee Paid SUBTOTAL (3) (\$) 200.	00
SUBMITTED BY						(Complete (if applicable))	

Registration No. Kenneth C. Brooks 38,393 Telephone 512-339-7760 Name (Print/Type) (Attorney/Agent) Signature

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Choi et al. Applicants:

PATENT APPLICATION

App. No. 09/698,317

TC/A.U.: 2834

Filed: Oct. 27, 2000

Dougherty, Thomas M. Examiner: Confirmation No.:

PA09-06V02 Docket No.:

For: HIGH-PRECISION ORIENTATION ALIGNMENT AND GAP CONTROL

STAGES FOR IMPRINT LITHOGRAPHY PROCESSES

## APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Applicants respond to the Notice of Allowance mailed September 01, 2004. All references made herein concerning the timing of documents are directed to the Patent Application Information Retrieval Website for the patent application that is identified above, unless indicated otherwise.

#### BACKGROUND

On October 27, 2000, the above-identified patent application was filed with the United States Patent and Trademark Office. On or about, May 16, 2003, a Restriction Requirement was mailed to the Applicants in excess of 500 days after the 14th month requirement as set forth by 35 USE section 154 (b) and 37 CFR section 1.703(1). In response to the first Restriction Requirement, Applicants filed an Amendment that was received in the United States Patent and Trademark Office [hereinafter referred to as USPTO] on or about July 7, 2003. A second Restriction Requirement was mailed on November 12, 2003, which was 5 days past the fourmonth deadline established by 35 USC section 1.54 (b) and 1

\[
\text{VPluto\AFS\AAAA\PA09-06V02(UTS-09)\PTA\PTA\_PA09\_Application.doc} \text{U.S. App. No. 09/698,317 } \] 37 CFR section 1.703(2). In response, Applicants filed a second Amendment that was received by the USPTO on November 24, 2003. According to PAIR, on or about February 20, 2004, a non-final Office action was mailed to the Applicants' attorney of record. See Appendix 1, attached hereto. On the same date, as indicated by PAIR, the mail was returned as undeliverable. See id. Finally, on August 4, 2004, following a telephone interview with the Examiner in charge of the application, the first non-final Office action received by Applicants' attorney was mailed--126 days after the four-month deadline as set forth by 36 USC section 154(b) and 37 CFR section 1.703(2). September 1, 2004, a Notice of Allowance was mailed which indicated a Patent Term Adjustment of 510 days, an adjustment that is approximately 126 days shorter than the adjustment to which Applicants are entitled. As a result, Applicants submit the present Application for Patent Term Adjustment.

#### A. Applicable Law

The Code of Federal Regulations recites that a request for reconsideration of the patent term adjustment indicated on the Notice of Allowance must be by way of an Application for Patent Term Adjustment and must occur before payment of the issue fee. 37 CFR section 1.705 (b). The fee set forth in 37 CFR section 1.18(e) must be included, along with a statement of facts involved specifying the correct patent term adjustment and the basis for the same. See *id*. The relevant dates 1.703(a)(e) for which an adjustment is sought and the adjustment as specified in 1.703(f). See *id*.

## C. Patent Term Adjustment Determination

The gravamen of Applicants' Application for Patent Term Adjustment results from confusion over the Non-Final Rejection having a USPTO mailroom date of February 20, 2004, shown on the transactional history of the PAIR website and in the Appendix 1. Specifically, Applicants have no record of receiving these communications and, furthermore, Applicants' attorney indicated as much to the Examiner in charge of the application on or about August 3, 2004. Appendix 2 attached hereto. Finally, considering that the non-final Office action was indicated as being returned as undeliverable on the same day that the non-final Office action was indicated as being in the USPTO mailroom, Applicants doubt whether the non-final office action of February 20, 2004 was mailed. Without mailing of the nonfinal Office action of February 20, 2004, Applicants contend that it was the non-final Office action mailed on August 4, 2004 that was the first action of the USPTO that satisfied the requirements of 35 USC section 132 for purposes of 37 CFR section 1.702 (2). As a result, the USPTO's first action pursuant to 35 USC section 132 was mailed August 4, 2004--126 days after the four-month period, required by 35 USC section 154(b) and 37 CFR section 1.702(2), expired. As a result, Applicants respectfully contend that the PTA be adjusted to include these 126 days in excess of the four months from the receipt by the USPTO, on November 24, 2003, of the second amendment. Thus, the entire term of the patent adjustment should be 636 days.

The undersigned authorizes charging deposit account number 502650 any and all fees necessary to effectuate

consideration of the present application, including the \$200.00 fee set forth in 37 CFR section 1.18(e).

Furthermore, Applicants are unaware of any circumstance during the prosecution of the application patent that constitutes a failure to engage in reasonable efforts to conclude processing or examination of such application. However, an amendment after Notice of Allowance was filed with the USPTO on or about October 15, 2004.

The present patent application is not subject to any terminal disclaimer.

Finally, as of the date of this Application, Applicants have not paid the issue fee.

Applicants respectfully request reconsideration of the Patent Term Adjustment in view of the foregoing.

#### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents.

Signed: Typed Name: Katrina Prati

Date: \_\_ 10-22-04

Respectfully submitted,

Kenneth C. Brooks Reg. No. 38,393

Legal Department Molecular Imprints, Inc. P.O. Box 81536

Austin, TX 78708-1436 (512) 339-7760, ext. 243

(512) 339-7760, (512) 491-8918

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Application Number ج

**SUBMIT** 

Or Or Vic

: 09/698,317

HIGH PRECISION ORIENTATION ALIGNMENT AND GAP ( LITHOGRAPHY PROCESSES

Application Data

lmage File

Continuity

Transaction Patent Term Adjustments History , Data ₽ Wrapper

This application is officially maintained in electronic form. To View: Click the desi Print: Check the desired document(s) and click StartDownload.

Mail Room Date	Document Description	Pag
10-15-2004	Amendment after Notice of Allowance (Rule 312)	
10-15-2004	Claim	
10-15-2004	Applicant Arguments or Remarks Made in an Amendment	
10-13-2004	Information Disclosure Statement	
10-13-2004	Foreign Reference	
10-13-2004	NPL Documents	

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Other Copyrights		10-13-2004	NPL Documents
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<b>™</b> ==	and the	10-13-2004	NPL Documents
		09-01-2004	Notice of Allowance
		09-01-2004	Notice of Allowance
		09-01-2004	List of References cited by Applicant
		09-01-2004	Search info on File Wrapper
		09-01-2004	Issue Information on File Wrapper
		09-01-2004	Bibliographic Data Sheet
		08-30-2004	Fee Worksheet (PTO-875)
		08-30-2004	Claims recorded on File Wrapper
		08-20-2004	Amendment

08-20-2004

08-20-2004

08-10-2004

08-04-2004

08-04-2004

08-04-2004

08-04-2004

08-04-2004

Claim

413)

Amendment

**Non-Final Rejection** 

Applicant Arguments or Remarks Made in an

**Examiner Interview Summary Record (PTOL -**

**Information Disclosure Statement** 

List of references cited by Examiner

List of References cited by Applicant

Search info on File Wrapper

Miscellaneous Incoming Letter

1		
	03-22-2004	Preliminary Amendment
	03-22-2004	Specification
	03-22-2004	Applicant Arguments or Remarks Made in an Amendment
	03-22-2004	Miscellaneous Incoming Letter
	03-22-2004	Drawings
	02-20-2004	Mail returned to USPTO as undelivered
	02-20-2004	Non-Final Rejection
	02-20-2004	List of references cited by Examiner
	02-20-2004	List of References cited by Applicant
	02-20-2004	Search info on File Wrapper
	02-13-2004	Examiner Search Notes
	02-12-2004	Examiner Search Notes
	12-22-2003	Information Disclosure Statement
	12-22-2003	NPL Documents
	11-28-2003	Response to Election/Restriction Filed
	11-28-2003	Claim
	11-28-2003	Applicant Arguments or Remarks Made in an Amendment
	11-12-2003	Requirement for Restriction/Election
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	07-16-2003	Request for Refund
	07-07-2003	Amendment
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	07-07-2003	Claim
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	07-07-2003	Transmittal to TC
	07-07-2003	Authorization from Applicant to Treat All Replies as Incorporating an Extension of Time
	07-07-2003	Specification
1		

	07-07-2003	Abstract
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	02-26-2003	Information Disclosure Statement
	02-26-2003	Foreign Reference
	02-26-2003	NPL Documents
	02-26-2003	Transmittal to TC
	12-31-2002	Communication - Re: Power of Attorney (PTOL-308)
	11-18-2002	Transmittal to TC
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	08-13-2002	Miscellaneous Incoming Letter
	06-21-2002	NPL Documents
	06-21-2002	Foreign Reference
	06-21-2002	Foreign Reference
	06-21-2002	Foreign Reference
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06-21-2002	Foreign Reference
06-21-2002	Foreign Reference
06-21-2002	NPL Documents

06-21-2002	NPL Documents
06-21-2002	NPL Documents
06-21-2002	Information Disclosure Statement
01-31-2002	Communication - Re: Power of Attorney (PTOL-308)
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01-15-2002	Change in Power of Attorney (May include Associate POA)
01-15-2002	Change of Address
07-02-2001	Preliminary Amendment
07-02-2001	Claim
07-02-2001	Applicant Arguments or Remarks Made in an Amendment
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06-07-2001	Applicant Response to Pre-Exam Formalities Notice
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I.	
06-07-2001	Extension of time from Applicant - filed as separate letter
06-07-2001	Oath or Declaration filed
12-26-2000	Pre-Exam Formalities Notice
10-27-2000	Issue Information on File Wrapper
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10-27-2000	Claims recorded on File Wrapper
10-27-2000	Transmittal of New Application
10-27-2000	Specification
10-27-2000	Claim
10-27-2000	Abstract
10-27-2000	Drawings
10-27-2000	Oath or Declaration filed
10-27-2000	Fee Worksheet (PTO-875)
10-27-2000	Fee Worksheet (PTO-875)
10-27-2000	Miscellaneous Incoming Letter
10-27-2000	Miscellaneous Incoming Letter

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Application No.	Applicant(s)
09/698,317	CHOI ET AL.
Examiner	Art Unit
Thomas M. Dougherty	2834

Interview Summary	09/698,317	CHOIET AL.
	Examiner	Art Unit
	Thomas M. Dougherty	2834
All participants (applicant, applicant's representative, PTO personnel):		
All participants (applicant o representative, r. r.e. peresenter).		
(1) <u>Thomas M. Dougherty</u> .	(3)	
(2) <u>Ken Brooks, Esq.</u> .	(4)	
Date of Interview: <u>02 August 2004</u> .		
Type: a)⊠ Telephonic b)☐ Video Conference c)☐ Personal [copy given to: 1)☐ applicant	2) applicant's representative	p]
Exhibit shown or demonstration conducted: d) Yes If Yes, brief description:	e) <b>□</b> No.	
Claim(s) discussed:		
Identification of prior art discussed:		
Agreement with respect to the claims f)☐ was reached. of	g)□ was not reached. h)⊠ N	I/A.
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Brooks noted that the first office action was never received and that the preliminary amendment was not considered prior to that office action. The Examiner told Mr. Brooks that he would send another office action.  (A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)		
THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.		
	THOMAS M. L	e . Ministica s. i
	PRIMARY E GROUF	XAMINER
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Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Interview Summary

Paper No. 804